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FEB 18 2009

OFFICE OF PETITIONS

In re Application of . :  
Simon, et al. :  
Application No. 10/687,632 : DECISION REFUSING STATUS  
Filed: October 20, 2003 : UNDER 37 CFR 1.47(a)  
Attorney Docket No. 2332270US0 :

This is in response to the petition under 37 CFR 1.47(a), filed January 12, 2009.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor.

**Failure to respond will result in abandonment of the application.**  
Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Rule 47 applicant has not met requirement (1) above.

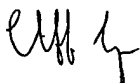
Rule 47 applicant has not demonstrated diligent effort in finding non-signing inventor McCauley. With respect to showing diligent effort, "an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made."<sup>1</sup> Here, the evidence establishes that a copy of the application papers was mailed to the last known address of Simon, but were returned as undeliverable. Knowing that Simon is no longer at that address, Rule 47 applicant has not provided any information of the steps taken to subsequently locate him. Applicant has provided no documentary evidence, such as a copy of an internet search, to support such a finding<sup>2</sup>.

Further correspondence with respect to this matter should be addressed as follows:

By mail:           Mail Stop Petitions  
                  Commissioner for Patents  
                  P.O. Box 1450  
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By FAX:           (571)273-8300  
                  Attn: Office of Petitions

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.



Cliff Congo  
Petitions Attorney  
Office of Petitions

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<sup>1</sup> MPEP 409.03(d).

<sup>2</sup> Such documentary evidence should be made part of the affidavit or declaration. See id.